



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,581	10/23/2001	John H. Stevens	HRT-287	4692

27777 7590 06/15/2007
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER

ISABELLA, DAVID J

ART UNIT	PAPER NUMBER
----------	--------------

3738

MAIL DATE	DELIVERY MODE
-----------	---------------

06/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/047,581

Applicant(s)

STEVENS, JOHN H.

Examiner

DAVID J. ISABELLA

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-20,23-32 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-20,23-32 and 42-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of the Claims

Currently claims 15-20, 23-32 and 42-44 are pending for action. No amendments were made to the claims.

Double Patenting

Claims 5-20,23-32,42-44 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 15-17 and 21-26 of copending Application No. 10/869407. Although the conflicting claims are not identical, they are not patentably distinct from each other because applicant is claiming the same invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

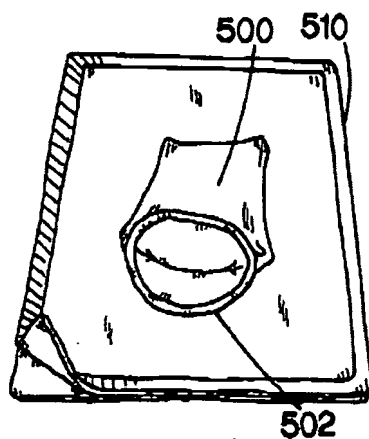
A person shall be entitled to a patent unless –

Claims 15-20,30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox [5480424].

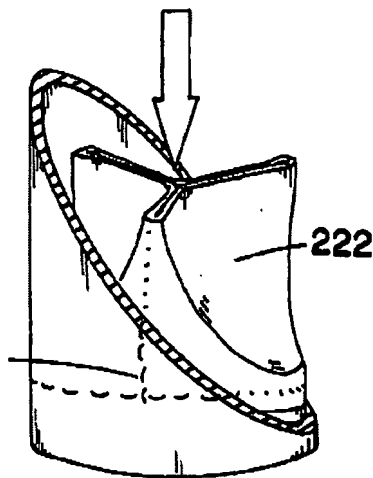
Cox discloses a valve for implantation at a desired location within a mammal, comprising: a flexible sleeve having a proximal end, a distal end and an outside surface;

Art Unit: 3738

at least one cusp configured to permit blood flow through the at least one cusp in a single direction; at least one ring attached to the outside surface at only the proximal end of the sleeve, the at least one ring being attached to a portion of the sleeve that is not everted; and at least one fastener extending in a direction radially outward with respect to the sleeve. See figure 8 and relevant portions of the specification.

FIG. 8

Claims 17-20 see figure 5.

FIG. 5

Claims 30-32, see columns 5-7 of Cox.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox [5480424] as applied to claim 15 above, and further in view of Andersen et al [5840081 or 5411552].

While Cox generally illustrates a basic embodiment for a ring, other configurations are well known in the art as shown, for example, by Andersen et al. To substitute the ring of Andersen et al for the basic structure of Cox without departing from the scope of the function of the ring as well as adding securing benefits would have been obvious to one with ordinary skill in the art as substitution of equivalent elements.

Claims 27-29 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox [5480424] as modified by Andersen et al [5840081 or 5411552] as applied to claim 15 above, and further in view of Piplani et al [5489295] Piplani et al teaches a ring for securing vascular tubes to the natural tissue comprising a series of

Art Unit: 3738

compressible sinusoidal legs connected in series forming a annulus. The legs include radially projecting barbs/pins to assist in direct attachment of the tubular device to the adjacent tissue. To add the projecting barbs/pins to the sinusoidal ring of Cox, as modified by Andersen et al to allow for direct securement of the tubular device to the adjacent tissue thereby obviating the need for time consuming sutures would have been obvious to one with ordinary skill in the art at the time of the invention thereof.

Response to Arguments


Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID JTSABELLA
Primary Examiner
Art Unit 3738

DJI
6/7/2007